

REMARKS

Claim 5 is canceled, and claims 1-4, 6-15, and new claim 16 are in the case as of the date of this amendment. No claims have been allowed.

Claims 1, 3, 4, 6, 8, 9, 11, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tocik. Claims 2, 5, 7, 10, 12 (Applicants assume that the Examiner intended to recite claim 12 here) and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These rejections and objections are respectfully traversed.

Applicants appreciate the Examiner's recognition of allowable subject matter in original claims 2 and 5. In the instant amendment, Applicants have (i) rewritten claim 1 to include all of the limitations of original claim 5, and (ii) added new claim 16 which combines the limitations of original claims 1 and 2. Accordingly, Applicants respectfully submit that claims 1-4 and new claim 16 are in condition for immediate allowance.

With respect to claims 6-15, Applicants respectfully disagree with the Examiner's contention that Tocik anticipates the teachings thereof under 35 U.S.C. 102(b).

Tocik appears to teach a projectile having a cartridge 1 charged with an explosive 13 covered with a plug 2. Mounted on top of plug 2 is a stacked arrangement of shot elements 3, 4, 4', etc. Each shot element is shaped like a conical disk. The stack of shot elements has a hole drilled therethrough. A brittle pin 8 fits tightly in the lowermost shot element 3 and is held in place on top of the stack by means of a head 6 or nut 14. If the head/nut is operated to hold the shot elements tightly together, the projectile stays together in one piece after being fired from a gun. Conversely, if the head/nut is operated to hold the shot elements loosely together, the shot elements are free to move eccentrically about pin 8 after being fired from a gun. The eccentric movement eventually applies sufficient lateral pressure on pin 8 such that pin 8 fails. Failure of pin 8 permits the shot elements to be released from their stacked arrangement. See page 1, lines 59-65, 70-79 and 86-93; and page 2, lines 1-34.

In contrast, the relevant portion of Applicants' independent claim 6 recites a mission responsive ordnance made up of a plurality of individually explosive elements (emphasis added) arranged in a bundled configuration. However, Applicants respectfully submit that each of the "shot elements" in Tocik are not "individually explosive

elements." The word "shot" as it relates to a projectile is defined as "a projectile designed to be discharged from a firearm or cannon, especially a solid ball or bullet as distinguished from an explosive shell." See Webster's New Universal Unabridged Dictionary, Simon and Schuster, New York, 1983. Thus, the definition of "shot" clearly defines a projectile that is not explosive in nature. For this reason, Applicants respectfully submit that the "shot element" in Tocik does not teach or even suggest individually explosive projectiles as Applicants teach and claim. It is further respectfully submitted that claim 6, as well as claims 7-10 as depending therefrom, are not anticipated or even suggested by Tocik.

The relevant portion of Applicants' independent claim 11 recites a second means within the bundled configuration and coupled to at least a portion of the projectiles for "expelling" (emphasis added) each of the projectiles from the bundled configuration thereof. For example, Applicants teach the use of explosive charge(s) as the part of the claimed "second means" that brings about the expelling of the projectiles from their bundled configuration.

Applicants respectfully submit that Tocik does not teach or suggest any means (coupled to the shot elements) that is capable of expelling the shot elements from their


stacked configuration. The root of the word "expelling" or "expel" is defined by the active language "to drive out; to force to leave." See Webster's New Universal Unabridged Dictionary, Simon and Schuster, New York, 1983. In contrast, Tocik discloses a structure by which the shot elements are released from their stacked configuration in a passive manner. Specifically, the shot elements are free to rotate eccentrically (about pin 8) after the projectile is fired depending on the pressure applied by head 6 or nut 14. While it is true that one must actively adjust this pressure, the structure of pin 8 and head 6/nut 14 does not expel the projectiles from their stacked configuration. Release of the shot elements is brought about by the motion of the projectile that causes the shot elements to rotate eccentrically until pin 8 fails, at which point the shot elements are simply released from their stacked configuration. Accordingly, it is respectfully submitted that Tocik does not teach or suggest means for expelling projectiles from a bundled configuration as Applicants teach and claim. It then follows and is further respectfully submitted that claim 11, as well as claims 12-15 as depending therefrom, are not anticipated or even suggested by Tocik.

None of the prior art cited by the Examiner appears to teach or even suggest the unique combination taught by

Applicants. In view of all the art of record, the claims remaining in the case are considered to patentably distinguish thereover.

It is submitted in view of these remarks that all grounds for rejection have been removed by the foregoing amendment. For the hereinabove reasons, Applicants solicit an early and favorable response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marguerite O. Dineen", written over the printed name.

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